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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA

In Re

Chapter

Case No.

(Rel.Dkt#)

Debtor(s)

Movant(s)

v.

Respondent(s)

**ORDER SETTING PRELIMINARY
HEARING ON MOTION FOR
RELIEF FROM THE AUTOMATIC
STAY AND ESTABLISHING
PROCEDURES FOR
PRESENTATION OF EVIDENCE AT
FINAL HEARING**

The Movant having filed a Motion for Relief from Stay (the "Motion") in the above-captioned proceeding and an objection thereto having been filed;

IT IS ORDERED THAT:

1. The provisions of Local Bankruptcy Rule 4001-1 (Local Order No. 67) shall apply to all further proceedings on the Motion, except as modified by this Order.
2. Unless otherwise ordered by the Court, the provisions of Rule 26(a)(1), (d), (e)(1), (f), and (g)(1), Federal Rules of Civil Procedure (as amended 1993), otherwise made applicable to this proceeding by Rules of Bankruptcy Procedure 9014 and 7026, shall not apply to further proceedings on the Motion. To the extent necessary, the timing of the disclosures required under Rule 26(a)(2) or 26(a)(3) shall be accelerated to comply with Local Bankruptcy Rule 4001-1 (Local Order No. 67) or this Order.

1 3. A preliminary hearing on the Motion for Relief from the Stay shall be held
2 on _____ at **U.S. Post Office Building C, 101 W. Goodwin St., 2nd**
3 **Fl., Prescott, Arizona 86303.** The Court will either resolve the Motion at that
4 hearing or set a final hearing. A preliminary hearing calendar contemplates a
5 hearing of no more than 5 minutes, with no more than 15 minutes devoted to any
6 one matter. If Movant or Movant's counsel requires more time on a matter, or
believes that because of the number of parties involved or the complexity of the
factual and/or legal issues involved that more time is necessary, Movant or Movant's
counsel must contact the the Courtroom Deputy and obtain a hearing date and time
to be noticed out to interested parties. The respondent shall appear personally or by
counsel at all hearings for relief from stay.

7 4. At least three (3) days prior to the preliminary hearing the parties must
8 file and serve declarations or affidavits to support their respective positions. FAILURE
9 TO FILE THESE DECLARATIONS MAY AFFECT THE COURT'S RULING ON THIS
MATTER, EITHER SUMMARILY GRANTING OR DENYING THE RELIEF REQUESTED.

10 5. At the preliminary hearing, the Movant must present a prima facie case
11 that the automatic stay should be vacated. An affidavit or declaration may be
utilized for such purposes.

12 6. At the preliminary hearing, the objecting party must present evidence
13 that "there is reasonable likelihood that the party opposing relief from such stay will
14 prevail at the conclusion of the final hearing." 11 U.S.C. § 362(e). An affidavit or
declaration may be sufficient for such purposes.

15 7. If the Court concludes, at the preliminary hearing or pursuant to the
16 stipulation of the parties, that a final hearing must be conducted in this matter, the
parties shall advise the Court, after personal consultation,

17 (a) whether the final hearing shall be conducted as oral argument or as an
evidentiary hearing;

18 (b) if the final hearing is to be presented as oral argument, the proposed
19 briefing schedule;

20 (c) if the final hearing is to be conducted as an evidentiary hearing,
whether

21 (i) any discovery must be conducted and the proposed
22 procedure and time deadlines to accomplish same;

23 (ii) a joint pretrial order is to be filed, and the proposed date
to file same; and/or

24 (iii) the parties intend simply to file and serve a list of
25 witnesses and exhibits and exchange all exhibits one week
prior to the final hearing (See Local Bankruptcy Rule 4001(I)).

26 8. If the parties stipulate to a final hearing only being conducted
27 on this matter, the parties shall present a form of order vacating the preliminary
28

1 hearing (if necessary) and requesting that the automatic stay remain in place
2 pending further order of the Court.

3 9. The automatic stay shall remain in place at least pending the
4 conclusion of the preliminary hearing.

5 10. If the procedure outlined herein is not followed by a party, it
6 may result in the imposition of sanctions which may include summarily granting or
7 denying the relief requested.

8 1% Movant shall provide notice of this order to all interested parties and file
9 a certificate of service thereon pursuant to Bankruptcy Rule 9013-1(j)(C).

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SIGNED AND DATED ABOVE